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1. Declaration Under 37 CFR 1.130 to Disqualify Commonly Owned Patent as Prior Art (4 pages), with attached copy of Assignment (4 pages), 2. Return Postcard
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on August 26, 2004

Kathy Raymond
Kathy Raymond

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|--------------|----------------------------------------------------------------------------|--------------|---------------------|
| Applicant : | Peter Krulevitch, et al. | Docket No. : | IL-10581 |
| Serial No. : | 09/851,231 | Art Unit : | 1772 |
| Filed : | 05/07/2001 | Examiner : | Catherine A. Simone |
| For : | METHOD FOR PRODUCING MICROCHANNELS HAVING CIRCULAR CROSS-SECTIONS IN GLASS | | |

DECLARATION UNDER 37 CFR §1.130
To Disqualify Commonly Owned Patent as Prior Art

Commissioner of Patents and Trademarks
Alexandria, VA 22313-1450

Dear Sir:

(1) I, Eddie E. Scott, hereby declare that I am a citizen of the United States and a resident of Danville, California.

(2) I am employed by the University of California, at the Lawrence Livermore National Laboratory, Livermore, California, as Assistant Laboratory Counsel, and I am empowered to act on behalf of The Regents of the University of California.

(3) In the subject application the Examiner rejected claims 11 under 35 USC 102(e) as being anticipated the Krulevitch et al reference (U.S. Patent No. 6,437,551). The Examiner also rejected claims 12 and 16 under 35 US 103(a) as allegedly being unpatentable over the Krulevitch et al reference (U.S. Patent No. 6,437,551).

(4) The Krulevitch et al reference is U.S. Patent No. 6,437,551, titled "Microfabricated AC Impedance Sensor" issued August 20, 2002 from an application filed November 1, 2000 and claims benefit of a Provisional Application filed November 2, 1999. The Krulevitch et al reference is not a reference against the subject application under 35 U.S.C. 102(b) because the Krulevitch et al reference issued as a patent August 20, 2002 which is more than 15 months after the subject application was filed.

(5) The three inventors named in the subject application, Peter Krulevitch, Julie Hamilton, and Harold Ackler (The Inventors) are also inventors in the Krulevitch et al reference, U.S. Patent No. 6,437,551. The Inventors conceived their invention prior to the Provisional Application November 2, 1999 filing date of the Krulevitch et al reference. Prior to the Provisional Application November 2, 1999 filing date of the Krulevitch et al reference, The Inventors completed a written "Record of Invention" describing the invention claimed in the subject application. The written "Record of Invention" was read and understood by individuals other than The Inventors prior to the Provisional Application November 2, 1999 filing date of the Krulevitch et al reference. The Inventors diligently pursued the invention from Provisional Application

November 2, 1999 filing date of the Krulevitch et al reference until May 7, 2001, the provisional filing date of the subject application.

(6) The Krulevitch et al reference, U.S. Patent No. 6,437,551, is assigned to The Regents of the University of California. U.S. Patent No. 6,437,551 on its face shows that it is assigned to The Regents of the University of California. Also, the records of the United States Patent and Trademark Office show that it is assigned to The Regents of the University of California.

(7) The subject application is also assigned to The Regents of the University of California. An assignment filed with the subject application shows that the subject application is assigned to The Regents of the University of California. A copy of the assignment is attached.

(8) Enclosed with this application is a TERMINAL DISCLAIMER, disclaiming the terminal months of any patent granted on the subject application beyond the expiration date of the Krulevitch et al reference, U.S. Patent No. 6,437,551.

(9) Applicant respectfully requests that the enclosed DECLARATION be accepted to remove Krulevitch et al as a reference against the subject application.

(10) I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by

fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "E. E. Scott", is written over a horizontal line.

Declarant
Eddie E. Scott

Dated: August 26, 2004